

Report on the

Alabama College Savings Plan

State of Alabama

Montgomery, Alabama

October 1, 2006 through September 30, 2008

Filed: February 6, 2009



Department of
Examiners of Public Accounts
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Ronald L. Jones, Chief Examiner



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Honorable Ronald L. Jones
Chief Examiner of Public Accounts
Montgomery, Alabama 36130

Dear Sir:

Under the authority of the *Code of Alabama 1975*, Section 41-5-21, I submit this report on the results of the examination of the Alabama College Savings Plan for the period October 1, 2006 through September 30, 2008.

Sworn to and subscribed before me this
the 27th day of January, 2009.

Lindsay Smith
Notary Public

Respectfully submitted,

Robin Price

Robin Price
Examiner of Public Accounts

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SUMMARY

**Alabama College Savings Plan
October 1, 2006 through September 30, 2008**

The Alabama College Savings Plan (the "Plan") operates under the authority of the *Code of Alabama 1975*, Sections 16-33C-1 through 16-33C-13. The Plan consists of two alternatives to assist individuals in paying costs and expenses of attending colleges and universities and thereby encourages students to attend colleges and universities.

This report presents the results of an examination of the Plan and a review of compliance by the Plan with applicable laws and regulations of the State of Alabama. This examination was conducted in accordance with the requirements of the State of Alabama, Department of Examiners of Public Accounts under the authority of the *Code of Alabama 1975*, Section 41-5-14. Our examination was performed for the purpose of determining whether the public officers, agents, and employees of the Plan properly and lawfully accounted for all money and other public assets or resources received, disbursed, or in the custody of the Plan. Our examination included determining compliance by the Plan with state laws and regulations that pertain to financial transactions; personnel; safeguarding of state-owned assets, property, and resources; information dissemination, processing, and retention; and official actions, rulemaking procedures, and meetings. As a part of our examination, we also reviewed internal control policies and procedures relating to the areas listed above. Our examination did not encompass managerial and operational matters, such as whether the Plan accomplished its mission or its regulatory, enforcement, investigative, or other oversight activities in an efficient, fair, timely, or legal manner.

Tests performed during the examination did not disclose any significant instances of noncompliance with applicable laws and regulations.

Since no findings were presented in the Report, the exit conference was conducted via telephone with Director, Ms. Brenda Emfinger on August 12, 2008.



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COMMENTS

**Alabama College Savings Plan
October 1, 2006 through September 30, 2008**

The Alabama College Savings Plan operates under the authority of the *Code of Alabama 1975*, Sections 16-33C-1 through 16-33C-13. The Alabama College Savings Plan consists of two alternatives to assist individuals in paying costs and expenses of attending colleges and universities and thereby encourages students to attend colleges and universities.

The Alabama Prepaid Affordable College Tuition Program (known as the PACT Program) was created in subsection (a) of Section 16-33C-6 and began operating in March 1990. The Alabama College Education Savings Program (known as the ACES Program or the Alabama Higher Education 529 Fund) was created under subsection (a) of Section 16-33C-10 and began operating in June 2002. The facilities and resources of the Office of the State Treasurer are used and employed in the administration of these programs under the guidance of the Board of Directors, which is chaired by the State Treasurer.

The Board of Directors of the Alabama College Savings Plan, who are trustees of the PACT and ACES Trust Funds, consists of the following ten members: the Lieutenant Governor, or his or her designee; the Executive Director of the Alabama Commission on Higher Education (ACHE), or his or her designee; the State Treasurer; the Chancellor of the Alabama Department of Postsecondary Education, or his or her designee; one person appointed by the Council of College and University Presidents; one person appointed by the Speaker of the House of Representatives; one person appointed by the Lieutenant Governor; one person appointed by the State Treasurer; and two persons appointed by the Governor. Members serve for terms of office of four years and are eligible for reappointment, and serve until a successor is appointed. Any person appointed to fill a vacancy on the Board is appointed in a like manner and serves for only the unexpired term.

Each member of the Board of Directors shall possess knowledge, skill, and experience in business or financial matters commensurate with the duties and responsibilities of the Alabama College Savings Plan. No person holding a full-time office or position of employment with the state, any county or municipality in the state, any educational institution, or any instrumentality, agency, or subdivision of the foregoing, shall be eligible for appointment to the Board.

The members of the Board of Directors serve without compensation, but may be reimbursed for each day's official duties of the Board at the same per diem and travel rate as is paid to state employees. During the period examined, the Board of Directors met quarterly. A majority of the members constitutes a quorum sufficient for the transaction of any business, and no action may be taken unless a quorum is present. The minutes of the board meetings were reviewed and appeared to reflect all actions taken by the Board.

According to the *Code of Alabama 1975*, Section 16-33C-5, the Board of Directors has the following powers to carry out the responsibilities of the Alabama College Savings Plan:

1. To adopt and amend bylaws.
2. To adopt the rules and regulations necessary to implement the provisions of this chapter either with or without compliance with the State Administrative Procedure Act.
3. To invest as it deems appropriate any funds in the PACT Trust Fund and ACES Trust Fund in any instrument, obligation, security, or property that constitutes legal investments for public funds in the state, including legal investments for the State Treasurer and the Alabama Trust Fund, and to name and use depositories for its investments and holdings.
4. To execute contracts and other necessary instruments.
5. To contract with a purchaser under the PACT Program.
6. To enter into savings agreements under the ACES Program.
7. To contract for necessary goods and services, to employ necessary personnel, and to engage the services of qualified persons and entities for administrative and technical assistance in carrying out the responsibilities of the Plan, including the PACT Trust Fund and ACES Trust Fund, under terms and conditions that the Board deems reasonable and appropriate. All such contracts awarded by the Board may be for periods not exceeding five years, except that professional services contracts awarded by the Board for the ACES Program may be for periods not exceeding ten years.
8. To solicit and accept gifts, including bequeathments or other testamentary gifts made by will, trust, or other disposition, grants, loans, and other aids from any personal source for deposit into the PACT or ACES Trust Fund as designated by the donor, or if no such designation is made, into either as determined by the Board, or to participate in any other way in any federal, state, or local governmental programs in carrying out the purposes of this chapter.
9. To define the terms and conditions of and enter into PACT contracts and ACES savings agreements.
10. To delegate to the State Treasurer the responsibilities of the day-to-day administration of the Plan.
11. To establish other policies, procedures, and criteria necessary to implement and administer the provisions of this chapter.
12. To authorize the State Treasurer to approve marketing material produced for the Plan. Neither the state, the State Treasurer, nor the Board is liable for misrepresentation by a marketing agent.

The PACT Program was created so that undergraduate tuition and qualified fees associated with attending a public college or university in the State of Alabama could be paid in advance at a rate lower than the projected cost at the time of enrollment. The cost of a PACT contract is based on the average current and projected tuition cost and qualified fees at state colleges and universities and on the number of years expected to elapse between the purchase of a contract and matriculation. The Board of Directors has established the cost of PACT contracts based on actuarial assumptions recommended by the contracted actuary.

The PACT Program has three payment plans under which prepaid college tuition contracts may be purchased. The three plans are lump sum, five-year monthly installments, and extended monthly payments. The lump sum plan is a one-time payment that is due when the child is enrolled in the PACT Program. The five-year installment plan provides for 60 monthly payments. This payment plan is only available to students who have not yet entered the eighth grade. The extended monthly payment plan provides for payments each month from the time of enrollment until May of the projected college entrance date of the student.

The PACT Program operates through fiduciary funds maintained in the State Treasury. Fund 0470 is the PACT Administrative Fund that is used to pay operating expenses of the PACT Program. Contract purchasers are assessed fees for application processing, account maintenance, late payments, returned checks, cancellations, and duplicate documents. These fees are deposited into Fund 0470 to pay the administrative expenses of the PACT Program. Fund 0471 is the PACT Trust Fund that is used to pay tuition costs and qualified fees to colleges and universities. Fund 0471 is also used to pay the investment management fees of the PACT Program. Payments made into the PACT Trust Fund are invested in various securities in order to generate income to offset differences between contract payments and college tuition at the time of enrollment.

Health Data, Inc. is the contracted Records Administrator for the PACT Program. Health Data, Inc. has a vital role in the data processing of the PACT Program and has responsibilities that affect each transaction cycle. Some duties performed by the Records Administrator include the following: maintain and update enrollee registers on a daily basis; post contract payments to purchasers' accounts; remit late payment notices and other exception notices to contract purchasers; provide computer operations necessary for the PACT Program; provide information to the actuary for preparation of the actuarial evaluation; provide listings of PACT Program participants as needed; and other services required by the PACT Program.

The ACES Program (also known as the Alabama Higher Education 529 Fund) was established by the State to allow natural persons who are at least 19 years of age and citizens or residents of the United States and certain organizations to fund the Qualified Higher Education Expenses of a Designated Beneficiary at an Eligible Educational Institution. The term Eligible Educational Institution generally includes most community colleges, public and private four-year colleges, universities, graduate and postgraduate programs, and certain proprietary and vocational schools, while the term Qualified Higher Education Expenses generally includes tuition, required fees, books, supplies, and equipment required for the enrollment or attendance of a Designated Beneficiary at an Eligible Educational Institution.

The ACES Program allows participants to set aside money that grows tax-deferred until the student is ready to use it. The ACES Program offers high contribution limits and the ability to use the proceeds at any accredited university, college, or trade school. Alabama residents are also offered lower minimum investments and reduced fees. Participants may select from three flexible investment options (Years to Enrollment Portfolios, Fixed Portfolios, and Individual Fund Portfolios).

The ACES Program operates through fiduciary funds maintained in the State Treasury. Fund 1096 is the ACES Administrative Fund that was established to accept, deposit, and disburse funds for the purpose of administering the ACES Program. Fund 1097 is the ACES Trust Fund that is comprised of separate savings accounts held in segregated accounts as established by savings agreements for the sole benefit of the contributor and designated beneficiary. Fund 1168 is the ACES Opportunity Enhancement Fund that was established for the purpose of enhancing and providing higher education opportunities and programs, as the Board deems necessary and appropriate.

The Board of Directors has entered into a Services Agreement with Van Kampen Asset Management, Inc. under which Van Kampen acts as Program Manager. Van Kampen provides or causes to be provided investment advisory, accounting, recordkeeping, marketing, custodial, and administrative services to the ACES Program under the Services Agreement.

There are five employees of the Office of the State Treasurer that administer the Alabama College Savings Plan. The nonconsumable personal property of the Plan is maintained by the Office of the State Treasurer. The personnel records and property records are reviewed as part of the legal compliance examination of the Office of the State Treasurer as well as the applicable provisions of the SMART Governing program.

The audited financial information of the PACT and ACES Programs is separately reported in the basic financial statements contained in the State of Alabama's Comprehensive Annual Financial Reports. The basic financial statements for the State of Alabama are prepared in conformity with generally accepted accounting principles.

Board Members and Official
October 1, 2006 through September 30, 2008

Board Members			Term Expires
Hon. Kay Ivey	Chairperson Ex-Officio	Montgomery, AL	2011
Hon. Jim Folsom, Jr.	Ex-Officio	Montgomery, AL	2011
Hon. Lucy Baxley	Ex-Officio	Vestavia Hills, AL	2007
Hon. Gregory Fitch, Ph.D.	Ex-Officio	Montgomery, AL	Indefinite
Hon. Bradley Byrne	Ex-Officio	Montgomery, AL	Indefinite
Hon. Renee Culverhouse, Ph.D.	Ex-Officio	Southside, AL	2007
Hon. Thomas Corts, Ph.D.	Ex-Officio	Birmingham, AL	2007
Hon. Ricky Jones	Member	Andalusia, AL	2011
Hon. Tom Broughton	Member	Birmingham, AL	2011
Hon. Russell Buffkin	Member	Mobile, AL	2010
Hon. Harold J. McGee, Ph.D.	Member	Jacksonville, AL	2009
Hon. W. Daniel Hughes, Jr.	Member	Montgomery, AL	2009
Hon. Willie Huff	Member	Birmingham, AL	2012
Hon. Ed Sherling, Jr.	Member	Enterprise, AL	2007
Hon. Ed Lewis	Member	Auburn, AL	2008

Official

Ms. Brenda Emfinger	Director	Alabama College Savings Plan (PACT and ACES Programs) 100 North Union Street, Suite 660 Montgomery, AL 36130
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